



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt a Resolution Approving a Five-Year Copier Lease and Maintenance Agreement and Authorizing the City Manager to Execute the Agreement with Lucas Business Systems for a Staff Copier and Printing Solutions for the Public

MEETING DATE: March 21, 2012

PREPARED BY Library Services Director

RECOMMENDED ACTION: Adopt a resolution approving a five-year copier lease and maintenance agreement and authorizing the City Manager to execute the agreement with Lucas Business Systems for a staff copier and printing solutions for the public.

BACKGROUND INFORMATION: The Lodi Public Library currently has a staff networked black-and-white copier that is more than 12 years old and frequently in need of service. Staff members also have access to a networked color printer and individual direct line color printers. On the public side, the library provides two networked printers — one black-and-white and one color — for library patrons using 24 networked public access computers. The current expense for toner and ink cartridges for both staff and public copier/printers is approximately \$4,500 annually. Additionally the library has a maintenance agreement with a vendor to provide service for the staff copier approximately \$1,600 per year.

The library received two responses to a request for quotation on the leasing and maintenance of printing and copying equipment for both staff and the public.

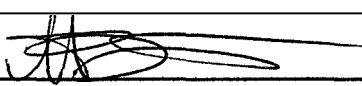
Based on the thoroughness of its response, the library is proposing to enter a lease agreement with Lucas Business Systems to procure three copier/printers to replace the existing equipment.

1. A networked staff black-and-white and color copier/printer with full capabilities
2. A networked public black-and-white and color copier/printer
3. A networked public printer for backup

The monthly maintenance cost for the three pieces of equipment is \$247. Quarterly pricing for the estimated 25,000 black-and-white copies and 1,000 color copies is \$295. The maintenance agreement includes all supplies except paper products. Annual total is \$4,144.

The total base rate is \$20,700 for a five-year lease. Overage copies are billed at the same rate -- \$.009 for black-and-white and \$.07 for color.

APPROVED:


Konradt Bartlam, City Manager

The library charges \$.15 for b/w and \$.50 for color copies made by library patrons using the public computers. Estimated annual revenue from the public printing service is \$3,500, offsetting the cost of the lease agreement. The library will save an estimated \$5,000 over five years by entering into the lease.

FISCAL IMPACT:
per year

Minimum annual lease costs of \$4,144 offset by revenue of approximately \$3,500

FUNDING AVAILABLE:

Revenues and expenditures will be budgeted in the Library Operating Fund


Jordan Ayers, Deputy City Manager


Nancy C. Martinez
Library Services Director

NM/sb

Attachment

7500 National Drive
Livermore, CA 94551
(925) 447-4100

524 Kansas Ave
Modesto, CA 95351
(209) 529-3610

1371 Wart Lane,
Stockton, CA 95205
(209) 466-3786

Bill To Customer #:

Equipment Location #:

Company	Company	Lodi, City Of Inc.
Department	Department	Lodi Public Library
Address	Address	201 W Locust St
City / State / Zip	City / State / Zip	Lodi, Ca 95240
Billing Contact	Key Operator	
Phone #	Phone #	209-333-5542
Fax #	Fax #	
E-mail Address	E-mail Address	

Date	Representative	Purchase Type	Purchase Terms	IT Contact:	
1/23/12	Jeff Dunning	Lease	Lease	IT Phone:	

[illegible]

Additional Special \$1 Buyout Lease for 247.00/mo for 60 Months. This Order is Pending the approval of City Council. No units will be delivered until approved by Council. Instructions:	Subtotal	
	Tax	
	TOTAL	Lease

Maintenance Plans - MFP/Printers

Terms	Network Support		See NetMA Addendum for additional cost		Includes Supplies		Yes	Parts and Labor Only	No
					Excludes Staples		No	Excludes Paper	Yes
Billing Base Frequency		Monthly	Base B/W	\$225.0000	Volume B/W	25,000	Overages B/W*	\$0.0090	
	x	Quarterly	Base Color	\$70.0000	Volume Color	1,000	Overages Color 1*	\$0.0700	

Maintenance Plans - ColorQube

Terms	Network Support		See NetMA Addendum for additional cost	Includes Supplies		Parts and Labor Only	
				Excludes Staples		Yes	Excludes Paper
		Meter 1 - Useful		Volume Meter 1		Overages Meter 1	
Billing Base Frequency	Monthly	Meter 2 - Everyday		Volume Meter 2		Overages Meter 2	
	Quarterly	Meter 3 - Expressive		Volume Meter 3		Overages Meter 3	

Additional Comments:	Note: Per Terms of Bid - the Maintenance price will not increase for the 5 year term without prior written approval from the Library.
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Declined	ABT/LBS will install software to automatically download meters for contract billing. ABT/LBS may charge additional fees for meter collection should customer decline installation.	Accept
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The terms and conditions on the reverse side are part of this agreement. The customer acknowledges that the customer has read this agreement, understands it, and agrees to be bound by its terms and conditions. Further, the customer agrees that this agreement is the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this agreement.

Credit Approval

Date: _____ Credit Limit: _____ Terms: _____

Approved by: _____

FOR DEMO PURPOSES ONLY

The signing of this form acknowledges that said Demo equipment is the sole property of Astro Business Technologies/Lucas Business Systems unless purchase is completed. ABT/LBS has the right to remove the equipment at any time if deemed necessary with or without permission of individual customer.

Purchase Authorization

<i>Signature</i>	<i>Date</i>	<i>Signature</i>	<i>Date</i>
<i>Print Name</i>	<i>Title</i>	<i>Print Name</i>	<i>Date</i>

Astro Business Technologies / Lucas Business Systems

Terms and Conditions

Sales Order Terms and Conditions

1. This purchase Order Agreement states the entire agreement between Customer and Astro Business Technologies/Lucas Business Systems, hereafter referred to as "ABT/LBS". No other agreements or representations exist in connection with this order. Modifications or additions are subject to ABT/LBS's agreement, in writing. ABT/LBS rejects any terms and conditions which add to, limit or alter these terms, however stated. Customer's signature on an order or acceptance of delivery shall constitute Customer's acceptance of these terms and conditions.
2. This Purchase Order Agreement shall be effective only upon written acceptance by ABT/LBS at its home office without notice to Customer. This order may not be canceled after acceptance by ABT/LBS.
3. If Customer's order is accompanied by a deposit payment, Customer authorizes ABT/LBS to collect and deposit such payment in ABT/LBS's account pending acceptance or rejection of Customer's order. If ABT/LBS rejects Customer's order, Customer's deposit payment will be refunded without interest. If ABT/LBS accepts Customer's order, Customer's deposit payment will be credited against the amount due ABT/LBS on Customer's order. In the event Customer fails to accept or pay for ordered ABT/LBS equipment or programming, ABT/LBS shall have the right to retain and apply such deposit toward satisfaction of resulting damages incurred by ABT/LBS and as partial compensation for the value of any benefits conferred on Customer by ABT/LBS.
4. All risk of loss or destruction or damage to the ordered equipment shall pass to Customer upon delivery.
5. Title will be passed on to you when your cash transaction is paid in full. Until such time, to secure all of your obligations to us under this Agreement, you hereby grant us a security interest in (a) the Equipment to the extent of your interests in the equipment, (b) anything attached or added to the Equipment at any time, (c) any money or property from the sale of the Equipment, and (d) any money from an insurance claim if the Equipment is lost or damaged. You agree that the security interest will not be affected if this Agreement is changed in any way. You hereby appoint us (or our agents), as your true and lawful attorney-in-fact to affix your signature to UCC financing statements prepared and filed on your behalf by us (or our agent) with the same force and effect as is you had signed such financing statements. If we request, you agree to sign the financing statements in order for us to publicly record our security interest. This Agreement or a copy of this Agreement shall be sufficient as a financing statement and may be filed as such.
6. Duties, sales, use, excise or similar tax which may apply to this order are not included in the price of ordered equipment and Customer agrees to pay same either directly to the levying authority or to ABT/LBS if ABT/LBS is required to collect or pay same.
7. ABT/LBS warrants to Customer that the equipment delivered under this Agreement will at the time of delivery be free of defects of manufacture. During the warranty period applicable to the equipment, ABT/LBS will provide at no cost to Customer adjustments, repair, labor and parts replacement, excluding repairs required due to accident, misuse or neglect by the Customer. The foregoing shall be Customer's sole and exclusive remedy with respect to equipment provided by ABT/LBS. This warranty is in lieu of all other warranties, expressed, implied and statutory, including any warranty with respect to merchantability or fitness for a particular purpose.
8. ABT/LBS shall not be liable for consequential, incidental or punitive damages or for loss of profits arising out of or related to equipment or programming ordered by the customer. Whether such damages be direct, indirect, foreseeable or otherwise and whether liability is claimed to arise by reason of contract, tort, strict liability, negligence or otherwise in no event shall ABT/LBS's liability to customer exceed the price of ordered equipment stated in this order.

Maintenance Service

Beginning on Effective Date, Astro Business Technologies/Lucas Business Systems agrees to provide, from 8:00 AM to 5:00 PM Monday through Friday, the availability of maintenance service while the machines are located within Alameda, Contra Costa, Lake, San Francisco, Santa Clara, Sonoma, Solano, San Mateo, Sacramento, Napa, Mendocino, Marin Counties, Amador, Calaveras, Stanislaus, Tuolumne, San Joaquin, or Merced Counties. Maintenance service to keep the machines in, or restore the machines to, good working order includes preventive maintenance based on the specific needs of individual machines as determined by Astro Business Technologies/Lucas Business Systems. Maintenance service also includes lubrication, adjustments and replacements of maintenance parts, all as deemed necessary by Astro Business Technologies/Lucas Business Systems.

Maintenance parts will be furnished on an exchange basis, and the replaced parts become the property of Astro Business Technologies/Lucas Business Systems. The Customer agrees to provide suitable environment for the machines as specified by Astro Business Technologies/Lucas Business Systems, including adequate space, electrical power, air conditioning and humidity control, and to provide Astro Business Technologies/Lucas Business Systems full and free access to the machines to provide maintenance service. Customer is responsible to implement appropriate safeguards for Customer's data.

Charges

For each machine, Customer agrees to pay a maintenance charge plus applicable taxes for the period of time specified (Period) and for each successive Period while the machine is under this Agreement.

For usage plan machines, Customer agrees to pay an Additional Maintenance Charge for the Units of Usage per Period, as measured by a Astro Business Technologies/Lucas Business Systems meter, multiplied by the applicable Additional Maintenance Charge Rate(s).

Customer agrees to promptly submit to Astro Business Technologies/Lucas Business Systems the meter reading for each usage plan machine as of the close of the last work day of the applicable Period.

Additional Maintenance Charges, if any, will be invoiced in the month following the Period in which they are incurred. Payment terms will be specified in the invoice.

Any special pricing is good for one year only and reverts to this schedule for years two and beyond. Astro Business Technologies/Lucas Business Systems may increase the Maintenance Charge without notice on each annual anniversary date of this contract.

Either party may withdraw any or all machines from this Agreement at any time by providing written notice one month in advance.

Services not Included in Maintenance Charge

The services listed in this section, if available and practical for the Astro Business Technologies/Lucas Business Systems to render, will be provided by Astro Business Technologies/Lucas Business Systems under this Agreement, and the Customer agrees to pay travel expenses and parts price plus travel, waiting and service time at Astro Business Technologies/Lucas Business Systems' applicable hourly rate, and minimum charges. The following services are not considered maintenance service as described in the section entitled "Maintenance Service":

The repair of damage, replacement of maintenance parts, or any increase in service time, caused by accident, disaster, neglect, abuse, misuse, use of the machines for purpose other than for which designed, transportation, alterations, attachments, accessories, use of non-Astro Business Technologies/Lucas Business Systems parts or supplies, non-Astro Business Technologies/Lucas Business

General

Services provided under this Agreement do not assure uninterrupted operation of the machines and Astro Business Technologies/Lucas Business Systems is not responsible for failure to render services due to causes beyond its control.

Variance from the terms and conditions of this Agreement in any Customer order or other written notification will be of no effect. This agreement is not assigned without prior written consent of Astro Business Technologies/Lucas Business Systems. Any attempt to assign any of the rights, duties or obligations of the Agreement without such consent is void.

No action, regardless of its form, which arises out of this Agreement, may be brought by either party more than two years after the cause of action has arisen, or, in the case of an action for nonpayment, more than two years from the date the last payment was due.

The Customer represents that the Customer is either the owner of the machines by this Agreement or authorized by the owner to include them under this Agreement.

Date: _____ Initial: _____

Lodi, City Of Inc. V 11.07.29

State & Local Government Lease Agreement

This State & Local Government Lease Agreement (the "Lease") contains the terms of your agreement with us. Please read it carefully and ask us any questions you may have. The words you, your and lessee mean you, our customer. The words we, us, our and the lessor, mean CIT Finance LLC.

Product/Equipment Description

Quantity

Description

1 Xerox Workcentre 7530 MFP

1 Xerox WorkCentre 6400 MFP

1 Xerox Phaser 3635 MFP

For additional equipment and accessories, attach addendum.

Product/Equipment Address

Title/Purchase Option

If no box is checked or if both boxes are checked, Title Option A will apply:

☒ Title Option A - Title to the Products/Equipment will be in Lessee's name during the Lease Term

☐ Title Option B - Title to the Products/Equipment will be in Lessor's name during the Lease Term

Check applicable box:

☐ Fair Market Value

☒ \$1.00 Purchase Option ☐ Other

Term and Lease

Lease Payment \$247.00 (plus taxes, if applicable)

Term (Months) 60

Payment Frequency Monthly

Variable Payment Schedule if applicable:

(Attach "Payment Schedule Addendum" if necessary)

____ payments @ ____; followed by ____ payments @ ____ followed by ____ payments @ ____; followed by ____ payments @ ____

Payments are due in Advance

Documentation Fee: \$75.00 (due with first invoice)

Total Cash Price: \$

Annual Rate of Interest:

Additional Provisions:

PLEASE NOTE Certain state and local government lessees must sign an additional addendum document.

LESSOR: CIT Finance LLC
10201 Centurion Parkway N. #100
Jacksonville, FL 32256

Authorized Signature

Date Signed

Printed Name

Print Title

Lessee

Lodi, City of Inc

Lessee Legal Name

Lodi Public Library

Lessee "Doing Business As" Name

201 W. Locust St

Billing Street Address

Lodi, Ca. 95240

Billing City, State, Zip

Andrea Woodruff

Billing Contact Name & Phone No.

209-333-5505

Lessee Phone Number (if different from above)

TERMS AND CONDITIONS

BY SIGNING THIS LEASE:

BY SIGNING THIS LEASE: (i) YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS ON THE FRONT AND BACK OF THIS LEASE; (ii) YOU AGREE THAT IF A COPY OF THIS LEASE IS SIGNED BY YOU AND THE FRONT OF THE COPY IS DELIVERED TO US BY FACSIMILE TRANSMISSION OR OTHERWISE, TO THE EXTENT ANY PROVISIONS ARE MISSING OR ILLEGIBLE OR CHANGED (AND NOT INITIALED BY BOTH YOU AND US), THE TERMS AND CONDITIONS OF THIS LEASE IN USE ON THE DATE WE RECEIVE THE COPY SIGNED BY YOU WILL BE THE TERMS AND CONDITIONS OF THE LEASE; (iii) YOU AGREE THAT THIS LEASE IS A NET LEASE THAT YOU CANNOT TERMINATE OR CANCEL EXCEPT AS SPECIFICALLY PROVIDED HEREIN, YOU HAVE AN UNCONDITIONAL OBLIGATION TO MAKE ALL PAYMENTS DUE UNDER THIS LEASE, AND YOU CANNOT WITHHOLD, SET OFF OR REDUCE SUCH PAYMENTS FOR ANY REASON; (iv) YOU AGREE THAT YOU WILL USE THE EQUIPMENT ONLY FOR BUSINESS PURPOSES; (v) YOU WARRANT THAT THE PERSON SIGNING THIS LEASE FOR YOU HAS THE AUTHORITY TO DO SO; (vi) YOU CONFIRM THAT YOU DECIDED TO ENTER INTO THIS LEASE RATHER THAN PURCHASE THE EQUIPMENT FOR THE TOTAL CASH PRICE; AND (vii) YOU AGREE THAT THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF UTAH. YOU CONSENT TO THE JURISDICTION OF ANY COURT LOCATED WITHIN THE STATE OF UTAH. YOU AND WE EXPRESSLY WAIVE ANY RIGHTS TO A TRIAL BY JURY.

LESSEE SIGNATURE

Lodi, City of Inc.

Lessee Legal Name

X

Authorized Signature

X

Date Signed

X

Print Signer's Name

Print Signer's Title

Federal Tax ID Number

1. **LEASE; DELIVERY AND ACCEPTANCE.** You agree to lease the products/equipment described on the front of this lease agreement (collectively "Equipment") on the terms and conditions shown on the front and back of this lease ("Lease"). If you have entered into any purchase contract ("Purchase Contract") with any supplier, you assign to us your rights under such Purchase Contract, but none of your obligations (other than the obligation to pay for the Equipment if it is accepted by you as stated below and you timely deliver to us such documents and assurances as we request). If you have not entered into a Purchase Contract, you authorize us to enter into a Purchase Contract on your behalf. You will arrange for the delivery of the Equipment to you. When you receive the Equipment, you agree to inspect it to determine if it is in good working order. This term of this Lease will begin on the date when you sign a Delivery and Acceptance Certificate at which time the Equipment will be deemed irrevocably accepted by you and will continue for the number of months specified in this Lease, unless earlier terminated in accordance with Section 16 of this Lease. The first Lease Payment is due on or before the date the Equipment is delivered to you. The remaining Lease Payments will be due on the day of each subsequent month (or such other time period stated on the front of this Lease) designated by us. If any Lease Payment or other amount payable to us is not paid within 10 days of its due date, you will pay us a late charge equal to the greater of (i) 5% of each late payment or (ii) \$5.00 for each late payment (or such lesser amount as is the maximum amount allowable under applicable law).

2. **NO WARRANTIES.** We are leasing the Equipment to you "AS-IS". YOU ACKNOWLEDGE THAT WE DO NOT MANUFACTURE THE EQUIPMENT, WE DO NOT REPRESENT THE MANUFACTURER OR THE SUPPLIER, AND YOU HAVE SELECTED THE EQUIPMENT AND SUPPLIER BASED UPON YOUR OWN JUDGMENT. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. YOU AGREE THAT REGARDLESS OF CAUSE, WE ARE NOT RESPONSIBLE FOR AND YOU WILL NOT MAKE ANY CLAIM AGAINST US FOR ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL, OR INDIRECT. YOU AGREE THAT NEITHER SUPPLIER NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF SUPPLIER IS OUR AGENT OR HAS ANY AUTHORITY TO SPEAK FOR US OR TO BIND US IN ANY WAY. We transfer to you for the term of this Lease any warranties made by the manufacturer or Supplier under a Supply Contract.

3. **EQUIPMENT LOCATION; USE AND REPAIR; RETURN.** You will keep and use the Equipment only at the Equipment Location shown on the front of this Lease. You may not move the Equipment without our prior written consent. At your own cost and expense, you will keep the Equipment eligible for any manufacturer's certification, in compliance with all applicable laws and in good condition and working order, except for ordinary wear and tear. You will not make any alterations, additions or replacements to the Equipment without our prior written consent. All alterations, additions and replacements will become part of the Equipment and our property at no cost or expense to us. We may inspect the Equipment at any reasonable time. Unless you purchase the Equipment in accordance with this Lease, upon termination of this Lease you will immediately deliver the Equipment to us in as good condition as when you received it, except for ordinary wear and tear, to any place in the United States that we tell you. You will pay for all expenses of deinstalling, crating and shipping, and you will insure the Equipment for its full replacement value during shipping.

4. **TAXES AND FEES.** You will pay when due, either directly or to us upon our demand, all taxes, fines and penalties relating to this Lease or the Equipment that are now or in the future assessed or levied by any state, local or other government authority. We will file all personal property, use or other tax returns (unless we notify you otherwise in writing) and you agree to pay us a fee for making such filings. We do not have to contest any taxes, fines or penalties. You will pay estimated property taxes with each Lease Payment or annually, as invoiced.

5. **LOSS OR DAMAGE.** As between you and us, you are responsible for any loss, theft or destruction of, or damage to the Equipment (collectively "Loss") from any cause at all, whether or not insured, until it is delivered to us at the end of this Lease. You are required to make all Lease Payments even if there is a Loss. You must notify us in writing immediately of any Loss. Then, at our option, you will either (a) repair the Equipment so that it is in good condition and working order, eligible for any manufacturer's certification, or (b) pay us the amounts specified in Section 9(b) below.

6. **INSURANCE.** You will provide and maintain at your expense (a) property insurance against the loss, theft or destruction of, or damage to, the Equipment for its full replacement value, naming us as loss payee, and (b) public liability and third party property insurance, naming us as an additional insured. If you so request and if we give our prior written consent, in lieu of maintaining the insurance described in the preceding sentence, you may self insure against such risks, provided that our interests are protected to the same extent as if the insurance required in clauses (a) and (b) above had been obtained by third party insurance carriers and provided further that such self insurance program is consistent with prudent business practices with respect to insuring such risk. You will give us certificates or other evidence of such insurance on the commencement date of this Lease and at such times as we request. All insurance obtained from a third party insurer will be in a form, amount and with companies acceptable to us, and will provide that we be given 30 days advance notice of any cancellation or material change of such insurance.

7. **TITLE; SECURITY INTEREST.** If Title Option A in this Lease has been chosen, you will hold title to the Equipment in accordance with the Supply Contract. If Title Option B in this Lease has been chosen, we will hold title to the Equipment. If (a) you have not terminated this Lease in accordance with Section 16 of this Lease and (b) no Default exists, then upon your payment to us of all Lease Payments and other amounts due under this Lease, at the end of the term of this Lease, you will be entitled to our interest in the Equipment, "AS IS, WHERE IS" without any warranty or representation from us, express or implied, other than the absence of any liens by, through or under us. To secure payment of all amounts due to us, to the extent permitted by law, you grant us and our assigns a first priority security interest in the Equipment (including any replacements, substitutions, additions, attachments and proceeds). You will keep the Equipment free of all liens and encumbrances. You will delivery to us signed financing statements or other documents we request to protect our interest in the Equipment.

8. **DEFAULT.** Each of the following is a "Default" under this Lease: (a) you fail to pay any Lease Payment or any other payment within 10 days of its due date; (b) you do not perform any of your other obligations, including but not limited to, providing and maintaining property insurance required under Section 6 of this Lease on the Equipment, under this Lease or in any other agreement with us or with any of our affiliates and this failure continues for 10 days after we have notified you of it; (c) you become insolvent, you dissolve, you assign your assets for the benefit of your creditors, you sell, transfer or otherwise dispose of all or substantially all of your assets, or you enter (voluntarily or involuntarily) any bankruptcy or reorganization proceeding; or (d) any representation or warranty made by you under this Lease or in any instrument you have provided us proves to be incorrect in any material respect.

9. **REMEDIES.** If a Default occurs, we may do one or more of the following: (a) we may cancel or terminate this Lease and any or all other agreements that we have entered into with you or withdraw any offer of credit; (b) subject to the provisions of Section 16, we may declare an amount equal to all amounts then due under this Lease, and the unpaid principle balance under this Lease as of the due date of the last Lease Payment paid when due and payable, whereupon the same shall be immediately due and payable; (c) we may require you to deliver the Equipment to us as set forth in Section 3; (d) we or our agent may peacefully repossess the Equipment without court order and you will not make any claims against us for damages or trespass or any other reason; and (e) we may exercise any other right or remedy available at law or in equity. You agree to pay all of our costs of enforcing our rights against you, including reasonable attorneys' fees. If we take possession of the Equipment, we may sell or otherwise dispose of it with or without notice, at a public or private sale, and apply the net proceeds (after we have deducted all costs related to the sale or disposition of the Equipment) to the amounts that you owe us. You agree that if notice of sale is required by law to be given, 10 days' notice shall constitute reasonable notice. You will remain responsible for any amounts that are due after we have applied such net proceeds.

10. **FINANCE LEASE STATUS.** You agree that if Article 2A-Leases of the Uniform Commercial Code applies to this Lease, this Lease will be considered a "finance lease" as that term is defined in Article 2A. By signing this Lease, you agree that either (a) you have reviewed, approved, and received a copy of the Supply Contract or (b) that we have informed you of the identity of the Supplier, that you may have rights under the Supply Contract, and that you may contact the supplier for a description of those rights. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU WAIVE ANY AND ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A.**

11. **ASSIGNMENT. YOU MAY NOT ASSIGN, SELL, TRANSFER OR SUBLEASE THE EQUIPMENT OR YOUR INTEREST IN THIS LEASE.** We may, without notification to you, sell, assign, or transfer this Lease and our rights in the Equipment. You agree that the new owner will have the same rights and benefits that we have now under this Lease but not our obligations. The rights of the new owner will not be subject to any claim, defense or set-off that you may have against us.

12. **LEASE PAYMENTS; PREPAYMENT OPTION.** You agree to pay us the Lease Payments, including both the principal and interest portions (the amount of principle and interest included in each Lease Payment has been, and will be determined according to the standard actuarial method of).

If you give us 30 days' prior written notice and no Default exists, you may prepay and terminate this Lease by paying us on any Lease Payment due date the Lease Payment and any other amounts then due under this Lease, the unpaid principle balance as of such date, and a service charge related to the prepayment of this Lease. If you fulfill such conditions, you will be entitled to our interest in the Equipment as set forth in Section 7. of this Lease.

13. **INDEMNIFICATION.** To the extent not prohibited by applicable law, with respect to any claims, actions, or suits that are made against us as a result of your actions, inactions, negligence or willful misconduct (Claims), you agree to reimburse us for and if we request, to defend us against, any Claims.

14. **MISCELLANEOUS.** You agree that the terms and conditions contained in this Lease make up the entire agreement between you and us regarding the lease of the Equipment. This Lease is not binding on us until we sign it. Any change in any of the terms and conditions of this Lease must be in writing and signed by us. You agree, however, that we are authorized, without notice to you, to supply missing information or correct obvious errors in this Lease. If we delay or fail to enforce any of our rights under this Lease, we will still be entitled to enforce those rights at a later time. All notices shall be given in writing by the party sending the notice and shall be effective when deposited in the U.S. Mail, addressed to the party receiving the notice at its address shown on the front of this Lease (or to any other address specified by that party in writing) with postage prepaid. All of our rights and indemnities will survive the termination of this Lease. It is the express intent of the parties not to violate any applicable usury laws or to exceed the maximum amount of time price differential or interest, as applicable, permitted to be charged or collected by applicable law, and any such excess will be applied to Lease Payments in inverse order of maturity, and any remaining excess will be refunded to you. If you do not perform any of your obligations under this Lease, we have the right, but not the obligation, to take any action or pay any amounts that we believe are necessary to protect our interests. You agree to reimburse us immediately upon our demand for any such amounts that we pay. IF A SIGNED COPY OF THIS LEASE IS DELIVERED TO US BY FACSIMILE TRANSMISSION, IT WILL BE BINDING ON YOU. HOWEVER, WE WILL NOT BE BOUND BY THIS LEASE UNTIL WE ACCEPT IT BY MANUALLY SIGNING IT OR BY PURCHASING THE EQUIPMENT SUBJECT TO THE LEASE, WHICHEVER OCCURS FIRST. YOU WAIVE NOTICE OF OUR ACCEPTANCE AND WAIVE YOUR RIGHT TO RECEIVE A COPY OF THE ACCEPTED LEASE. YOU AGREE THAT, NOTWITHSTANDING ANY RULE OF EVIDENCE TO THE CONTRARY, IN ANY HEARING, TRIAL OR PROCEEDING OF ANY KIND WITH RESPECT TO THIS LEASE, WE MAY PRODUCE A COPY OF THE LEASE TRANSMITTED TO US BY FACSIMILE TRANSMISSION THAT HAS BEEN MANUALLY SIGNED BY US AND SUCH COPY SHALL BE DEEMED TO BE THE ORIGINAL OF THIS LEASE. TO THE EXTENT (IF ANY) THAT THIS LEASE CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE, NO SECURITY INTEREST IN THIS LEASE MAY BE CREATED THROUGH THE TRANSFER AND POSSESSION OF ANY COPY OR COUNTERPART HEREOF EXCEPT THE COPY WITH OUR ORIGINAL SIGNATURE. IF YOU DELIVER THIS LEASE TO US BY FACSIMILE TRANSMISSION, YOU ACKNOWLEDGE THAT WE ARE RELYING ON YOUR REPRESENTATION THAT THIS LEASE HAS NOT BEEN CHANGED. If more than one Lessee has signed this Lease, each of you agrees that your liability is joint and several.

15. **FUNDING INTENT.** You reasonably believe that funds can be obtained to make all Lease Payments during the Term and hereby covenant that your chief executive or administrative officer or the administrative office of yours charged with preparing the budget submitted to your governing body, as applicable, will provide that nothing in this Agreement shall be construed to create a deficiency debt or commitment of revenues other than the current revenues of yours, and provided further that if your governing body elects not to appropriate funds for such payments, it shall evidence such nonappropriation by omitting funds for such payments due during the applicable fiscal period from the budget it adopts. It is your intent to make Lease Payments for the full Term if funds are legally available therefore you represent, warrant and covenant to us that the use of the Equipment is essential to its proper, efficient and economic operation. You will provide us with an essential use covenant to us that, among other things, you shall use the Equipment only for its governmental purposes.

16. **NONAPPROPRIATION OF FUNDS.** In the event sufficient funds are not appropriated and budgeted by your governing body or are not otherwise available in any fiscal period for Lease Payments (or any other amount due hereunder), and provided that you have exhausted all funds legally available for payment of the Lease Payments, then you shall immediately notify us of such occurrence and provide us with evidence of such non-appropriation acceptable to us (e.g., written certification by your legal counsel) and this Agreement shall terminate on the last day of the fiscal period for which funds for Lease Payments are available without penalty or expense to you of any kind whatsoever, except as to the portions of Lease Payments and those expenses associated with your surrender of the Equipment pursuant to Section 3 for which funds shall have been appropriated and budgeted or are otherwise available. Upon such termination, title to the Equipment shall vest with us. This Section 16 will not be construed so as to permit you to terminate this Lease in order to acquire any other equipment or services or to allocate funds directly or indirectly to perform essentially the same application for which the Equipment is intended. Notwithstanding the foregoing, you agree that (a) you will terminate this Lease under the provisions of this section 16 if any funds are appropriated to you, or by you, for the acquisition, retention or operation of other equipment or services performing functions similar to the Equipment for the fiscal period in which such termination would occur, (b) you will not during the term of this Lease give priority in the application of funds to any other functionally similar equipment or services; and (c) to the extent permitted by law, you will not expend or commit any funds for the purchase, acquisition or use of other equipment or services performing functions similar to the Equipment until the fiscal period following the fiscal period for which funds were first not available for the Equipment. This Section 16 will not be construed so as to permit you to terminate this Lease in order to acquire any other equipment or services or to allocate funds directly or indirectly to perform essentially the same application for which the Equipment is intended.

17. **AUTHORITY AND AUTHORIZATION.** You represent, warrant and covenant to us that: (a) You are a State or political subdivision thereof, a governmental entity, or a governmental agency; (b) You have the power and authority to enter into this Lease; (c) this Lease is a valid, legal and binding agreement, enforceable against you in accordance with its terms; and (d) You have the authority to execute and deliver this Lease. If you are a governmental entity, you agree that your execution and delivery of this Lease, and your agreement to the terms, conditions and covenants contained herein, constitute a valid, legal and binding agreement, enforceable against you in accordance with its terms. If you are not a governmental entity, you agree that your execution and delivery of this Lease, and your agreement to the terms, conditions and covenants contained herein, constitute a valid, legal and binding agreement, enforceable against you in accordance with its terms. 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If you are a governmental entity, you agree that your execution and delivery of this Lease, and your agreement to the terms, conditions and covenants contained herein, constitute a valid

RESOLUTION NO. 2012-23

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING FIVE-YEAR COPIER LEASE AND MAINTENANCE
AGREEMENT FOR THE LIBRARY STAFF COPIER AND
PRINTING SOLUTIONS FOR THE PUBLIC WITH LUCAS
BUSINESS SYSTEMS, AND FURTHER AUTHORIZING THE CITY
MANAGER TO EXECUTE THE CONTRACT

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WHEREAS, the Lodi Public Library currently has a staff networked black-and-white copier that is more than 12 years old and frequently in need of service; and

WHEREAS, the library provides two networked printers — one black-and-white and one color — for library patrons using 24 networked public access computers; and

WHEREAS, the current annual expense for these copying and printing solutions is approximately \$6,100; and

WHEREAS, the library received a thorough response to its request for quotation on leasing and maintenance of copy/print equipment for both staff and public use from Lucas Business Systems; and

WHEREAS, the proposed equipment includes:

1. A networked staff black-and-white and color copier/printer with full capabilities; and
2. A networked public black-and-white and color copier/printer; and
3. A networked public printer for backup.

WHEREAS, the annual total for providing copy/printing capabilities to both staff and public under this proposal is \$4,144; and

WHEREAS, the estimated annual revenue from the public printing service is \$3,500, offsetting the cost of the lease agreement and resulting in an estimated savings of \$5,000 over five years.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve a five-year copier lease and maintenance agreement for Lodi Public Library staff copier and printing solutions for the public with Lucas Business Systems; and

BE IT FURTHER RESOLVED that the Lodi City Council hereby authorizes the City Manager to execute the contract with Lucas Business Systems on behalf of the City of Lodi in an amount not to exceed \$4,144.00 annually.

Date: March 21, 2012

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I hereby certify that Resolution No. 2012-23 was passed and adopted by the Lodi City Council in a regular meeting held March 21, 2012, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, Nakanishi,
and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


JENNIFER M. ROBISON
Assistant City Clerk